

THE HONORABLE BENJAMIN H. SETTLE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JAMES A. BIGELOW,

Plaintiff,

vs.

NORTHWEST TRUSTEE SERVICES,
INC.; GREEN TREE SERVICING, LLC;
MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, Inc.;
WRIGHT, FINLAY & ZAK, LLP; TICOR
TITLE COMPANY; NATIONWIDE TITLE
CLEARING; FIRST AMERICAN TITLE
INSURANCE COMPANY; RENEE
PARKER; and DOE DEFENDANTS 1 – 20,

Defendants.

GREEN TREE SERVICING, LLC,

Counter-Plaintiff,

vs.

JAMES A. BIGELOW and CAROLYN
BIGELOW, Husband and Wife; WELLS
FARGO BANK, N.A.; OAK RIDGE YELM
HOME OWNERS ASSOCIATION, a non-
profit corporation; and ALL PERSONS OR
PARTIES UNKNOWN CLAIMING ANY
RIGHT, TITLE, ESTATE, LIEN, OR
INTEREST IN THE PROPERTY
DESCRIBED IN THE COMPLAINT

Case No.: 3:14-cv-05798-BHS

**MOTION IN OPPOSITION TO
AMENDED MOTION FOR ENTRY
OF DEFAULT**

MOTION IN OPPOSITION
Case No.: 3:14-cv-05798-BHS

James A. Bigelow
7916 Southwind Circle
Huntington Beach CA 92648
360-790-2568

1 HEREIN,

2 Counter-Defendants.

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4 NOW COMES the Counter-Defendant, James A. Bigelow, who files this Motion in
5 Opposition to the Motion for Entry of Default and states as follows:

- 6 1. Mr. Bigelow has sent correspondence to GTS asking for the verification and validation of
7 the alleged debt. Mr. Bigelow has also filed with this Court a verification and validation of
8 the alleged debt (Dkt. 53). Mr. Bigelow has still not received verification or validation of
9 any alleged debt. Alleged counsel for GTS has submitted documents into the record (Dkt.
10 16, 49) that do not look the same as those documents presented by GTS. These documents
11 are not self-authenticating, they are not official records, and they are not supported by an
12 affidavit. Mr. Bigelow is thereby challenging the authenticity of these documents.
- 13 2. Renee Parker, Esq., who has submitted a Motion for Entry of Default (Dkt. 54) on behalf
14 of GTS, does so pursuant to Rule 44(a) of the Fed. R. Civ. Proc. Rule 44 deals with
15 Proving an Official Record but counsel makes no reference to any official records.
- 16 3. An entry of default is governed by LCR 55. In the case of a defaulting party who has
17 entered an appearance, the moving party must give the defaulting party written notice of
18 the requesting party's intention to move for the entry of default at least 14 days prior to
19 filing its motion and must provide evidence that such notice has been given in the motion
20 for entry of default. No such written notice has been received by those party's entitled to
21 receive written notice.
- 22 4. Alleged counsel for GTS has filed for a judicial foreclosure in the District Court for
23 Western Washington, which is improper. "The Superior Court shall have original
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jurisdiction in all cases at law which involve the title or possession of real property.”
(Washington State Constitution, Title IV, Section 6).

5. Proof of Service of Summons (Dkt. 52, P. 8) declares that Carolyn Bigelow was served by leaving the summons with Jackie Deets – Daughter. Carolyn Bigelow has no daughter with the name of Jackie Deets, and no individual with the name of Jackie Deets resides at 10018 Cascadian Ave Se in Yelm, Washington, and no summons was left with person answering the door. Carolyn Bigelow has not been served and cannot be in default. Affidavit of person with personal knowledge to follow.
6. Proof of Service of Summons (Dkt. 52, P. 15) declares that Oak Ridge Yelm Homeowners Association was served by leaving the summons with Ruth Meenk. Ruth Meenk has nothing to do with the Oak Ridge Yelm Homeowners Association. The Oak Ridge Yelm Homeowners Association has not been served and cannot be in default. Affidavit of person with personal knowledge to follow.
7. Proof of Service of Summons (Dkt. 52, P. 18) declares that current occupant was served by leaving the summons with Jackie Deets – occupant. No individual with the name of Jackie Deets resides at 10018 Cascadian Ave Se in Yelm, Washington, and no summons was left with person answering the door. Occupant has not been served and cannot be in default. Affidavit of person with personal knowledge to follow.
8. The owner of the alleged Note, whoever that may be, has still not declared Mr. Bigelow in default. There has still not been a damaged party or a competent witness subject to cross examination to come forward. Since GTS is only the servicer, they cannot be the damaged party.

1 WHEREFORE, the Counter-Defendant, James A. Bigelow, moves this Court to deny the
2 Entry of Default.

3 Dated this 11th Day of March, 2015
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5 /s/ James A. Bigelow
6 James A. Bigelow

7 **CERTIFICATE OF SERVICE**

8 I CERTIFY UNDER PENALTY OF PERJURY under the laws of the State of
9 Washington that the foregoing is true and correct and that a copy of the foregoing has been
electronically provided to Renee M. Parker, Esq., and Joseph H. Marshall, Esq.

10 Executed this 11th day of March, 2015.

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12 /s/ James A. Bigelow
13 James A. Bigelow
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